

AN ORDINANCE      **99538**

**AMENDING CHAPTER 2 OF THE CITY CODE OF  
SAN ANTONIO, TEXAS TO ADOPT A NEW  
ARTICLE VII ENTITLED, "CAMPAIGN FINANCE  
REGULATIONS"**

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**WHEREAS**, on October 23, 2003, the Mayor appointed the Mayor's Committee on Integrity and Trust in Local Government to make recommendations to strengthen city government; and

**WHEREAS**, the Mayor's Committee on Integrity and Trust in Local Government recommended the enactment of municipal campaign finance regulations; and

**WHEREAS**, the City Council Subcommittee on Campaign Finance was convened to examine the Integrity Committee's recommendations and to conduct its own review; and

**WHEREAS**, the City Council Subcommittee on Campaign Finance has proposed its recommended Code of Municipal Campaign Finance Regulations; **NOW THEREFORE**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** Chapter 2 of the City Code of San Antonio, Texas is amended to adopt a new Article VII entitled "Campaign Finance Regulations" as follows:

**ARTICLE VII. CAMPAIGN FINANCE REGULATIONS**

**DIVISION 1. GENERAL**

**Sec. 2-300 Statement Of Policy**

It is essential in a democratic system that the public has confidence in the integrity, independence, and impartiality of those who are elected to act on their behalf in government. There is a public perception that a relationship exists between substantial contributions and access to elected officials. To diminish the perceived or actual connection between contributions and influence, the City adopts this Campaign Finance Code to promote public confidence and, it is hoped, a greater degree of citizen participation in the electoral process.

## **Sec. 2-301 Definitions**

(a) Election Cycle: The following constitute separate election cycles:

- 1) for all candidates, beginning July 1 of the calendar year before the date of the regular municipal election, and ending on the date of the regular municipal election;
- 2) for a candidate in a run-off election after the regular municipal election, beginning the day after the regular municipal election, and ending on the date of the run-off election;
- 3) for all candidates, beginning either on the day after the regular municipal election or the day after the run-off election, as applicable, until June 30 of the calendar year before the next regular municipal election.

(b) Under Texas Election Code, Section 251.001, a "contribution" means a direct or indirect transfer of money, goods, or services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by this subdivision, and a guarantee of a loan or extension of credit, including a loan described by this subdivision.

The term "contribution" does not include a loan made in the due course of business by a corporation that is legally engaged in the business of lending money and that has conducted the business continuously for more than one year before the loan is made.

(c) A loan is deemed to be made in the ordinary due course of business if it:

- (1) bears the usual and customary interest rate of the lending institution for the category of loan involved;
- (2) is made on a basis that assures repayment;
- (3) is evidenced by a written instrument; and
- (4) is subject to a due date or amortization schedule.

(d) Terms not defined in this chapter but defined in the Texas Election Code shall have the meanings assigned to them in the Texas Election Code.

## **DIVISION 2. CONTRIBUTION LIMITS**

### **Sec. 2-302 Limitation Of Contributions To Candidates For Mayor Or Council**

(a) A candidate for district office on the City Council may not accept more than \$500.00 from any individual or single entity per election cycle.

(b) A candidate for mayor may not accept more than \$1000.00 from any individual or single entity per election cycle.

(c) Except as provided in Section 2-304 of this chapter, the limits set out in subsection (a) and (b) of this section apply to contributions made in the form of loans, extensions of credit, and guarantees of loans or extensions of credit as described in Section 2-301(b). Repayment of loans does reset the contribution limit.

(d) Political action committees, commercial entities, or campaign vendors cannot provide in-kind contributions with a commercial value to candidates or officeholders beyond the limits established in this section. Individuals may donate their time as campaign volunteers without limit. "In-kind" contribution means goods or services provided to or by a person at no charge or for less than their fair market value.

(e) An individual cannot contribute to candidate or candidate committee and a candidate for Mayor or City Council cannot accept campaign contributions or officeholder contributions in cash exceeding \$50, from a single donor during a campaign finance reporting period as defined in the Texas Election Code §253.033, including tickets to fund-raising events.

(f) A person may not knowingly make or authorize a political contribution in the name of or on behalf of another, unless the person discloses in writing to the recipient the name and address of the person actually making the contribution in order for the recipient to make the proper disclosure.

(g) A minor may make a contribution only if done so knowingly and voluntarily with funds, goods or services owned or controlled exclusively by the minor and not with proceeds of a gift where the purpose was to provide funds to be contributed. The minor shall submit a form with the contribution acknowledging his or her minor status and that his or her contribution complies with this provision.

(h) A "coordinated campaign expenditure" shall be considered a contribution subject to the limits set forth within this section and subject to the disclosure requirements for campaign contributions made to a candidate for elected city office. As used in this subsection, the term "coordinated campaign expenditure" means a payment, other than a direct contribution, for an activity, service or product that contains express advocacy for the election or defeat of a clearly identified candidate(s) for city office and is made in cooperation, consultation, or concert, with or at the request or suggestion of, a candidate(s) for city office or a candidate's representative, agent or employee.

Coordinated campaign expenditures shall include, but not be limited to the following:

1) Voter identification and/or get-out-the-vote activity on behalf of a specific candidate(s) for city office;

2) A public communication that refers to a clearly identified candidate(s) for city office and that promotes or supports a candidate(s) for that office, or attacks or

opposes a candidate(s) for that office, or is suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate(s).

The following is not considered a coordinated campaign expenditure:

- 1) Direct monetary contributions made to a candidate for city office;
- 2) In-kind contributions made to a candidate for city office;
- 3) Payment by an individual or organization for the individual's or organization's overhead expenses including but not limited to rent, utilities, taxes, office supplies or salaries;
- 4) Volunteer (unpaid) activity(ies) on the part of the individual or members of the organization.

#### **Sec. 2-303 Time Limitation To Accept Donations**

(a) A candidate for Mayor or City Council shall not accept nor deposit campaign contributions after 5:00 P.M. on the 4<sup>th</sup> calendar day before the regular municipal election date.

(b) During a run-off election, a candidate for Mayor or City Council shall not accept nor deposit campaign contributions after 5:00 P.M. on the 4<sup>th</sup> calendar day before the date of the run-off election.

(c) Contributions received after the deadlines set out in (a) and (b) of this section or contributions not deposited by these deadlines may be deposited during the subsequent election cycle. Such contributions will be subject to limitations for the election cycle during which they are deposited.

#### **Sec. 2-304 Limits on Repayment of Loans or Reimbursements from Political Contributions**

(a) Loan Limit for Candidates for City Council.

A candidate for City Council may not use political contributions in an aggregate amount of more than \$25,000 during an election cycle to:

- 1) repay a loan to his or her campaign account that the candidate has made from his or her personal assets; or
- 2) reimburse campaign expenditures made from personal funds; or
- 3) repay a loan to the candidate or to any authorized committee of the candidate from any other person, persons, entity or entities.

The limit established by this section applies to the cumulative total from one or all combined loans.

(b) Loan Limit for Candidates for Mayor.

A candidate for Mayor may not use political contributions in an aggregate amount of more than \$50,000 during an election cycle to:

- 1) repay a loan to his or her campaign account that the candidate has made from his or her personal assets; or
- 2) reimburse campaign expenditures made from personal funds; or
- 3) repay a loan to the candidate or to any authorized committee of the candidate from any other person, persons, entity or entities.

The limit established by this section applies to the cumulative total from one or all combined loans.

(c) A candidate cannot accept a loan made in cash.

**DIVISION 3. CAMPAIGN ACCOUNTS AND REPORTS**

**Sec. 2-305 Single Campaign Account**

(a) A candidate for Mayor or City Council must deposit each and every campaign contribution into one and only one specified bank account. This single account must be used for all campaign deposits and campaign expenditures.

(b) Persons with established campaign accounts before the date this code goes into effect can transfer funds into the new single campaign account.

(c) At the time a candidate files the Appointment of Campaign Treasurer pursuant to Texas Election Code Section 252.001, the candidate shall declare the municipal office sought. If candidate subsequently decides to seek a different office, the candidate shall file an amended Appointment of Campaign Treasurer declaring the new office sought.

(d) If a candidate who has filed a campaign treasurer appointment decides to seek a different office that would require the appointment to be filed with another authority, a copy of the appointment certified by the authority with whom it was originally filed must be filed with the other authority in addition to the new campaign treasurer appointment, in accordance with the requirements of Texas Election Code Section 252.010.

(e) If, after declaring a candidacy for any elected office, the candidate subsequently declares his or her candidacy for any elected municipal office, he or she may maintain the same campaign finance account. However, if the candidate seeks a municipal office

which is subject to lower campaign contribution limits than the previously sought office, the candidate shall return all contributions in excess of the limits for the municipal office sought.

- (1) The transferor committee's available funds shall be viewed as those contributions most recently received that add up to the amount of cash on hand.
- (2) Contributions transferred must be aggregated with any contributions made by the same donor to the committee receiving the transfer. Amounts that would cause a contributor to exceed his or her per-election cycle contribution limit must be excluded from the transfer.

#### **Sec. 2-306 Campaign Account Statements**

(a) A candidate for Mayor or City Council or the campaign treasurer must send a campaign account statement directly to the designated campaign finance enforcement authority once a month within five business days of receiving the statement from the financial institution. The candidate may choose to direct the financial institution to send a copy of the statement directly to the campaign finance enforcement authority.

The City Clerk's Office shall serve as the official records repository for the municipal campaign finance authority.

#### **Sec. 2-307 Electronic Campaign Finance Filing**

(a) The City Council shall direct staff to research the development and implementation of electronic campaign finance filing system. The City Council, as soon as is practicable, shall authorize funding and implementation of this system.

(b) Upon implementation of the electronic campaign finance filing system, candidates for Mayor or City Council will file and update electronic reports with the City Clerk's Office. The reports must identify deposited campaign contributions and current campaign expenditures and must list the name, address, principal occupation, and principal employer of the contributor. All contributions must be reported within five business days of filing monthly campaign account statement required by Section 2-306.

(c) In general and runoff elections, the final campaign finance report must be filed no later than 5:00 P.M. on the third calendar day preceding the general or run-off election day.

(d) The City will provide access to computer equipment for candidates to file the electronic reports. A candidate, officeholder, or political committee that is required to file electronic reports under this chapter may apply for an exemption if

- (1) the candidate, officeholder, or campaign treasurer of the committee files with the commission an affidavit stating that the candidate, officeholder, or committee, an

agent of the candidate, officeholder, or committee, or a person with whom the candidate, officeholder, or committee contracts does not use computer equipment to keep the current records of political contributions, political expenditures, or persons making political contributions to the candidate, officeholder, or committee; and

(2) the candidate, officeholder, or committee does not, in a calendar year, accept political contributions that in the aggregate exceed \$20,000 or make political expenditures that in the aggregate exceed \$20,000.

(e) The City of San Antonio will post the candidates' electronic campaign finance reports through a designated Elections Website.

(f) These reporting requirements are in addition to the reporting requirements under the Texas Election Code.

#### **Division 4. POLITICAL ACTION COMMITTEES**

##### **Sec. 2-308 Political Action Committees**

All political action committees (PACs) or groups spending money on municipal campaign activity or advertising associated with a city candidate or measure election, or specially designated City Council agenda item shall also, in addition to compliance with reporting requirements under the Texas Election Code, submit such reports electronically with the municipal campaign finance authority. Deadlines and contents of reports for political action committees shall be set in accordance with the Texas Election Code.

#### **Division 5. CITY CONTRACTORS**

##### **Sec. 2-309 Contribution Prohibitions**

(a) Any person or company official acting as a legal signatory for a proposed contractual relationship that applies for a "high-risk" discretionary contract, as defined by the City of San Antonio Contracting Policy and Process Manual, may not make a campaign contribution to any councilmember or candidate at any time from the time the Request for Proposal (RFP) or Request for Qualifications (RFQ) is issued until 30 calendar days following the contract award.

(b) If the signatory legally entering the contract has made such a contribution, the city may not award the contract to that contributor or to that contributor's business entity.

(c) In the event that a candidate unknowingly accepts a contribution in contravention of the provisions of this section, then it shall be the duty of the candidate to return the contribution within 5 business days after he or she becomes aware of the violation.

(d) The Department of Asset Management shall determine whether a contract is "high risk." The criteria for designation as a "high-risk" contract are:

- (1) Value of the contract over the life of the contract will exceed \$1 million;
- (2) Contracts with value exceeding \$25,000 to be obtained without competitive solicitation;
- (3) Contract is for goods or services of a highly complex nature or for non-standard items; or
- (4) Contracts with exceptional community interest.

## **DIVISION 6. ENFORCEMENT**

### **Sec. 2-310 Campaign Finance Enforcement Authority**

The Ethics Review Board shall have authority to review reports required under this chapter and shall have the jurisdiction to investigate, make findings, issue rulings and assess sanctions concerning any alleged violation of this chapter, by any person subject to these provisions.

## **DIVISION 7. EFFECTIVE DATE**

### **Sec. 2-311 Effective Date**

- (a) This article is effective August 15, 2004.
- (b) This article applies to a political contribution accepted or political expenditure made on or after the effective date.
- (c) A political contribution accepted or a political expenditure made before the effective date of this article is governed by law in effect on the date the contribution was accepted or the expenditure was made.
- (d) A political contribution may not be accepted after the effective date of this article if the contribution from that donor, together with all contributions from that donor accepted before the effective date of this article, would exceed the maximum contribution established by Section 2-302.
- (e) A candidate or officeholder who has made a political expenditure from personal funds before the effective date of this article may reimburse his or her personal funds for that political expenditure from political contributions accepted before the effective date of this article.



(f) A candidate or officeholder who has made a political expenditure from personal funds before the effective date of this article may reimburse his or her personal funds for that political expenditure from political contributions accepted after the effective date of this article in amount that in the aggregate does not exceed the limit imposed by Section 2-304 of this article.


**SECTION 2.** This ordinance is effective on August 15, 2004.

**PASSED AND APPROVED** this 5th day of August, 2004.



**MAYOR**  
**Edward D. Garza**

**ATTEST:**   
City Clerk

**APPROVED AS TO FORM:**   
**Andrew Martin**  
City Attorney